IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5019 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PARAS PRINTERS - Petitioner(s)

Versus

GUJARAT ELECTRICITY BOARD - Respondent(s)

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Appearance :

MR AB PANDYA for Petitioner(s) : 1,
MR MD PANDYA for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 16/01/2006

ORAL JUDGMENT

1. Though this matter is called out twice, the learned advocate appearing on behalf of the petitioner is absent and therefore, under the circumstances, this Court has no alternative but to

decide and dispose of the present special civil application on merits exparte.

2. Earlier the petitioner sought leave to delete the prayer (4) and leave as prayed for was granted by the learned Single Judge of this Court for deleting the prayer (4) on 8.8.2001 and therefore, now the only prayer which is required to be considered is prayer in terms of Para-(3) i.e. with regard to the supplementary bill dated 31.3.1998.

3. It appears from the order passed by the Appellate Committee of the Gujarat Electricity Board (hereinafter referred to as the “GEB” for short) dated 21.6.1999 in pursuance of the appellate committee on 7.5.1999 that the petitioner was having electricity connection with contract load of 141.5 HP and connected load of 81 HP. It is case against the petitioner that on 6.2.98 one Shri D.E.Pandesara visited the factory and inspected the meter and it was found that neutral wire was separated from distribution box. The Junior Engineer concerned

reported this matter to the Executive Engineer, Udhna and requested him to take M.R.I. Record of the meter and the M.R.I. Report was taken and on checking of M.R.I. record it was found that the petitioner stopped the recording of the consumption of electric energy by disconnecting neutral wire during night hours and on the basis of the same, a case of theft was booked against the petitioner and the petitioner was issued impugned supplementary bill and thereafter the meter was sent to the laboratory for its inspection and the same also came to be considered by the said respondent electricity company while preparing the electricity supply bill. Aggrieved by and dissatisfied with the impugned supplementary bill, the petitioner preferred an appeal before the appellate committee and the appellate committee partly allowed the said appeal. So far as the chargeable days are concerned, considering the staggering days and public holidays, it was reduced to 131 days from 159 days and load factor was also directed to be revised accordingly. Thus, the respondent was directed to revise the supplementary

bill by taking chargeable days as 131 and load factor C as 0.9 with other parameters of ABCD formula unchanged. Being aggrieved by and dissatisfied with the same, the petitioner has preferred the present special civil application under Article 226 and 227 of the Constitution of India.

4. It appears from the record that the main contention on behalf of the petitioner was that unless the competent Criminal Court renders its verdict, recovery pursuant to the order of the Appellate Committee cannot be made. However, this Court by order dated 30.9.1999 considering the order passed by the learned Single Judge of this Court passed in Special Civil Application, has negatived said contention and this Court issued notice on the statement made by the learned advocate appearing on behalf of the petitioner that the petitioner is prepared to deposit full amount of revised supplementary bill as per the impugned order of the appellate committee in installments without prejudice to his rights and contentions. I have gone through

the order passed by the Appellate Committee of the GEB impugned in the present special civil application and in my opinion, the appellate committed on appreciation of evidence and considering the checking sheet as well as the laboratory report has specifically come to the conclusion that the petitioner has committed theft of electrical energy by tampering with the neutral wire connection to the static meter and as the said finding is based upon appreciation of evidence, the same is not required to be reappreciated by this Court exercising the powers under Articles 226 and 227 of the Constitution of India. Even considering the submission on behalf of the petitioner, the appeal came to be allowed and the supplementary bill came to be refused so far as the chargeable days and load factor is concerned. Therefore, the impugned order has been passed after proper application and taking into consideration the submissions made on behalf of the petitioner and the same is not required to be interfered with by this Court as the same is neither illegal, nor arbitrary and / or perverse.

5. For the reasons stated above and even for the reasons stated in the order passed by this Court in cognate matter i.e. Special Civil Application NO.5017 of 1999 which was identical in nature, the present special civil application is required to be dismissed and is accordingly dismissed.

6. Rule is discharged. However, there shall be no order as to costs.

[M.R.Shah, J.]

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